IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. application no. 762/2005

Govind Ram s/o Sri Umeda Tamta
Village and Post Nauri Patti Dhaijuly
District Pauri Garhwal applicant

Versus

1 State of Uttaranchal
2 District and Session Judge Pauri Garhwal

Respondents

Hon'ble B.C. Kandpal,J.

This petition under Section 482 Cr. P.C. has been filed by the petitioner for quashing entire proceedings of special Trial No. 1/2003 in case crime No. 1692/20025 under section 13(1)(2) of Prevention of corruption Act.

Brief facts giving rise to this petition are that One Ved Prakash Arya lodged a complaint before the sub Divisional Magistrate, Kotdwar against the petitioner with the allegation that the petitioner had demanded a bribe from him for making report in his favour regarding possession of his ancestral property.

The Sub Divisional Magistrate directed the Thesildar to investigate the matter and the Tehsildar lodged a First Information Report under Section 13(1)(2) of Preventioon of Corruption Act. The Thesildar caught the applicant red-handed with Rs. 3000/- (three thousand) which he was accepting from the complainant.

The police after investigation submitted the charge sheet against the petitioner.

During the course of trial the accused absented himself from the court on the date fixed. Therefore the court issued non bailable warrants against the petitioner vide order dated 23.9.2005.

The petitioner has challenged the impugned order dated 23.9.2005 issuing non bailable warrants against him by way of this petition.

Heard Sh. S S yadav, learned counsel for the petitioner learned AGA and perused the record.

The learned counsel for the petitioner has argued that no prima facie case has been made out against him and the complaint was false and frivolous. It has also been submitted that the complaint was lodged due to personal rivalry against the petitioner and the same is a abuse of process of process of law. It has further been argued that the summoning in a criminal case is a serious matter and the criminal law cannot be set into motion as a matter of course.

The record reveals that the charge sheet was submitted against the petitioner on 13.2.2003 and thereafter the petitioner has not challenged the charge sheet as yet. The petitioner participated in the proceedings before the court below and thereafter he remained absent on 23.9.2005, therefore non bailable warrants were issued against him which gave an occasion to the petitioner to file this petition before this court.

On the basis of the record it cannot be said that the petitioner had infact any grievance against the summoning order or against the submission of the charge sheet. He had not challenged those stages at any earlier point of time.

I also do not find any abuse of process of court and I am of the view that it is not an occasion to discuss about the summoning order or about this aspect of the matter as to whether a prima facie case against the petitioner is made out or not

Normally when the accused during the course of trial remains absent on the date fixed and no application for seeking his exemption on that date is filed, the court has no other option except to issue non bailable warrants against the accused. That is what has been done by the trial court in the instant case.

I also do not find any illegality in the action of the court below to put to motion the criminal law by issuing non bailable warrants against the petitioner.

The petition lacks merit and is liable to be dismissed.

Accordingly the petition is dismissed in limine.

However, in case, if the petitioner moves and application before the court below for recalling the non bailable warrants issued against him the same should be disposed of expeditiously accordingly to law.

(B.C. Kandpal, J.)

29.10.2005
nbj